

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

LIANQUN LI,

Plaintiff,

-against-

UNITED STATES CITIZENSHIP AND
IMMIGRATION SERVICES,

Defendant.

22-CV-6556 (VEC)

ORDER ADOPTING REPORT &
RECOMMENDATION

VALERIE CAPRONI, United States District Judge:

WHEREAS on August 2, 2022, Plaintiff Lianqun Li filed a mandamus action against the United States Citizenship and Immigration Services (the “USCIS”) for a determination on her Application to Register or Adjust Status (the “Form I–485”), *see* Compl., Dkt. 1;

WHEREAS on August 9, 2022, the Court referred this case to Magistrate Judge Sarah Netburn for general pretrial management and for the preparation of reports and recommendations (“R&Rs”) on any dispositive motions, *see* Referral Order, Dkt. 4;

WHEREAS on April 5, 2023, Defendant moved to dismiss the action for lack of subject matter jurisdiction because the USCIS adjudicated Plaintiff’s Form I–485, thus mooted the action, *see* Not. of Mot., Dkt. 25;

WHEREAS to date, Plaintiff has not opposed the motion;

WHEREAS on June 20, 2023, Magistrate Judge Netburn entered an R&R recommending that the Court grant Defendant’s motion, *see* R&R, Dkt. 31;

WHEREAS in the R&R, Judge Netburn notified the parties that, pursuant to 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b), they had fourteen days to file written objections to the R&R’s findings, *id.* at 3;

WHEREAS Judge Netburn further noted that failure to file objections would result in

both the waiver of objections and the preclusion of appellate review, *id.*;

WHEREAS no objections were filed by either party;

WHEREAS in reviewing an R&R, a district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge,” 28 U.S.C. § 636(b)(1)(C);

WHEREAS when, as here, no party objects to the R&R, the Court may accept the R&R provided that “there is no clear error on the face of the record,” *Heredia v. Doe*, 473 F. Supp. 2d 462, 463 (S.D.N.Y. 2007) (quoting *Nelson v. Smith*, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985)); *see also* Fed. R. Civ. P. 72(b) advisory committee’s note;

WHEREAS an error is clear when the reviewing court is left with a “definite and firm conviction that a mistake has been committed,” *see Cosme v. Henderson*, 287 F.3d 152, 158 (2d Cir. 2002) (quoting *McAllister v. United States*, 348 U.S. 19, 20 (1954)); and

WHEREAS careful review of the well-reasoned R&R reveals that there is no clear error;

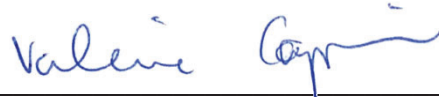
IT IS HEREBY ORDERED that the R&R is adopted in full and Defendant’s motion to dismiss is GRANTED.

IT IS FURTHER ORDERED that because the R&R gave the parties adequate warning, *see* R&R at 3, the failure to file any objections to the R&R precludes appellate review of this decision. *See Mario v. P & C Food Markets, Inc.*, 313 F.3d 758, 766 (2d Cir. 2002) (“Where parties receive clear notice of the consequences, failure timely to object to a magistrate’s report and recommendation operates as a waiver of further judicial review of the magistrate’s decision.” (citing *Small v. Sec’y of Health & Human Servs.*, 892 F.2d 15, 16 (2d Cir. 1989) (per curiam))).

The Clerk of Court is respectfully directed to close the open motion at Docket Entry 25 and to close the case.

SO ORDERED.

Date: July 13, 2023
New York, NY



VALERIE CAPRONI
United States District Judge